



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

AUG 25 2016

James C. Lamb  
Sandler Reiff Lamb Rosenstein & Birkenstock, P.C.  
1025 Vermont Ave. NW, Suite 300  
Washington, DC 20005

RE: MUR 7126  
Michigan Democratic State Central  
Committee and Ramesh Verma in  
his official capacity as treasurer

Dear Mr. Lamb:

On January 29, 2015, your client, Michigan Democratic State Central Committee and Ramesh Verma in his official capacity as treasurer ("MDP"), notified the Federal Election Commission (the "Commission") *sua sponte* that it may have violated certain provisions of the Federal Election Campaign Act of 1971, as amended (the "Act"). On August 16, 2016, the Commission determined to open a matter under review and find reason to believe that MDP violated 52 U.S.C. §§ 30102(c), 30102(h)(1), 30104(b) and 11 C.F.R. §§ 102.9(a)-(b), 102.10, 103.3, 104.3, 110.4(c)(3) and that MDP knowingly and willfully violated 52 U.S.C. § 30104(b) and 11 C.F.R. § 104.3. The Factual and Legal Analysis that sets forth the basis for the Commission's determination is enclosed.

We have also enclosed a brief description of the Commission's procedures for handling possible violations of the Act. In addition, please note that you have a legal obligation to preserve all documents, records, and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. See 18 U.S.C. § 1519. This matter will remain confidential in accordance with 52 U.S.C. § 30109(a)(4)(B) and § 30109(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. Please be advised that although the Commission cannot disclose information regarding an investigation to the public, it may share information on a confidential basis with other law enforcement agencies.<sup>1</sup>

<sup>1</sup> The Commission has the statutory authority to refer knowing and willful violations of the Act to the Department of Justice for potential criminal prosecution, 52 U.S.C. § 30109(a)(5)(C), and to report information regarding violations of law not within its jurisdiction to appropriate law enforcement authorities. *Id.* § 30107(a)(9).

In order to expedite the resolution of this matter, the Commission has authorized the Office of the General Counsel to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Pre-probable cause conciliation is not mandated by the Act or the Commission's regulations, but is a voluntary step in the enforcement process that the Commission is offering to your client as a way to resolve this matter at an early stage, and without the need for briefing the issue of whether or not the Commission should find probable cause to believe that your client violated the law. Enclosed is a conciliation agreement for your consideration

If you are interested in engaging in pre-probable cause conciliation, please contact Claudio J. Pavia, the attorney assigned to this matter, at (202) 694-1597, within seven days of receiving this letter. During conciliation, you may submit any factual or legal materials that you believe are relevant to the resolution of this matter. Because the Commission only enters into pre-probable cause conciliation in matters that it believes have a reasonable opportunity for settlement, we may proceed to the next step in the enforcement process if a mutually acceptable conciliation agreement cannot be reached within sixty days. See 52 U.S.C. § 30109(a), 11 C.F.R. Part 111 (Subpart A). Conversely, if you are not interested in pre-probable cause conciliation, the Commission may conduct formal discovery in this matter or proceed to the next step in the enforcement process. Please note that once the Commission enters the next step in the

<sup>2</sup> See Civil Monetary Penalties Inflation Adjustments, 81 Fed. Reg. 41,196 (Jun. 24, 2016).

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1 **FEDERAL ELECTION COMMISSION**  
2 **FACTUAL AND LEGAL ANALYSIS**  
3  
4

5 Respondent: Michigan Democratic State Central Committee  
6 and Ramesh Verma in his official capacity as treasurer

MUR 7126

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9 **I. INTRODUCTION**

10 This matter arises out of a *sua sponte* submission (“Submission”) filed by the Michigan  
11 Democratic State Central Committee (“MDP”) to notify the Commission of potential violations  
12 of the Federal Election Campaign Act of 1971, as amended (the “Act”) arising out of daily bingo  
13 games that MDP operated to raise money for its federal account.

14 **II. FACTUAL SUMMARY**

15 For approximately 14 years, until May 2014, MDP operated nine weekly bingo games to  
16 raise money for its federal account.<sup>1</sup> A bingo “game” consisted of two activities: traditional  
17 bingo and instant winner lottery.<sup>2</sup> Traditional bingo also included a progressive jackpot that  
18 continued to grow until won.<sup>3</sup> Approximately 120 players attended each game, and many  
19 players attended multiple games a week and dozens throughout the year.<sup>4</sup> The average player  
20 spent approximately \$100, and prizes ranged from one dollar to over \$1,000.<sup>5</sup> MDP held  
21 individual state licenses for the nine weekly games, and maintained separate bank accounts  
22 which it treated as federal accounts to deposit receipts and pay certain administrative costs such

<sup>1</sup> The games began “[m]ore than 10 years ago” and were terminated in May 2014. Submission at 2, 8 (Jan. 29, 2015). It appears that MDP operated federal bingo games since at least 2001. See MDP Amended 2001 Mid-Year Rpt. at 133-316 (May 8, 2002) (first reported disbursements for “Bingo Winnings”).

<sup>2</sup> Submission at 2.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.* (“[E]ach bingo game generally ranged from 80 to 160 players.”); *id.* at 7.

<sup>5</sup> *Id.* at 2-3 (“[A]n individual player spent approximately \$77 to \$123 per bingo . . . .”); *id.* at 2, 8.

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1 as the purchase of bingo supplies.<sup>6</sup> A chairperson managed each game and oversaw a staff of  
2 about a dozen workers.<sup>7</sup>

3 All transactions at the games were in cash. Players paid cash to purchase bingo cards and  
4 lottery tickets, and bingo workers paid prizes using the cash receipts.<sup>8</sup> MDP also used cash to  
5 pay staff and to make deposits in an account designated for the progressive jackpot, both of  
6 which were omitted from the committee's ultimate accounting of its bingo activity.<sup>9</sup> The  
7 chairpersons deposited the remaining cash receipts in the corresponding bingo license account —  
8 that is, what remained after paying out prizes, paying the staff, and making deposits to the  
9 progressive jackpot account.<sup>10</sup>

10 MDP did not record players' identifying information at the time of purchase.<sup>11</sup> It appears  
11 this omission was intentional; a committee representative informed the Office of the General  
12 Counsel ("OGC") that senior MDP staff perceived such recordkeeping as a risk to attendance  
13 and revenue. In contrast, MDP kept many other records that were required or recommended by  
14 the Michigan Lottery Charitable Gaming Division. The committee has provided the  
15 Commission with a variety of example bingo records from 2012. In addition, MDP issued prize

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<sup>6</sup> Submission at 2-3.

<sup>7</sup> See *id.*, Ex. 2 (Bingo Weekly Cash Accountability).

<sup>8</sup> Submission at 3, 6.

<sup>9</sup> See *id.*, Ex. 2 (Bingo Weekly Cash Accountability).

<sup>10</sup> *Id.*

<sup>11</sup> Submission at 7.

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1 vouchers which recorded the date and amount of prizes \$60 and above, along with those prize  
2 winners' name and address.<sup>12</sup>

3 In both the Submission and relevant disclosure reports, MDP understated its total bingo-  
4 related disbursements and receipts in several ways.<sup>13</sup> *First*, MDP used the prize vouchers to  
5 account for cash prize disbursements and to determine corresponding bingo receipts. But  
6 because those vouchers recorded winnings only \$60 and above, MDP omitted about one-third of  
7 all prizes awarded. *Second*, MDP did not include in its totals any of the cash receipts that were  
8 diverted to the progressive jackpot account. *Third*, MDP also omitted the cash paid directly to  
9 bingo staff from its totals of receipts and disbursements. Figure 1 estimates MDP's bingo  
10 activity during the statute of limitations period based on figures presented in the Submission,  
11 correcting for those omissions.<sup>14</sup> Within the limitations period, MDP understated contributions  
12 by approximately \$4,373,983 and disbursements by approximately \$3,941,099.

<sup>12</sup> *Id.* at 3 (describing procedures for recording "large prizes"). MDP's disclosure reports indicate that a large prize was \$60 and above. The Submission claims that the vouchers also collected players' occupation and employer name, but that is contradicted by example vouchers in the Commission's possession.

<sup>13</sup> The accounting issues are evident when comparing MDP's bingo records to corresponding disclosure reports. Moreover, a committee representative explained MDP's accounting procedures to OGC. See Submission at 3 (incorrect summary of total receipts and expenses for 2011 through 2014); MDP *Sua Sponte* Submission Supplement (Mar. 4, 2015) (same for 2010).

<sup>14</sup> The totals in Figure 1 reflect estimates for each item and, as noted, adjust the totals provided in the Submission to account for the three accounting issues addressed above. "Bingo Receipts" was calculated by adding to the figures in the Submission the amounts for prizes below \$60, deposits in the progressive jackpot account, and staff payments. "Prize Disbursements" was calculated by adding prizes below \$60. "Administrative Costs" was calculated by adding payments to the bingo staff and deposits in the progressive jackpot account. Prizes below \$60 amount to approximately 30.5% of total prizes, deposits in the progressive bingo jackpot account are approximately 2.7% of total receipts, and payments to the bingo staff are approximately \$360 per game, all based on consistent per-game averages reflected across the selection of game records in the Commission's possession.

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1 **Figure 1. — Estimated Bingo Fundraising Activity Within SOL**

Calendar Year	Bingo Receipts	Prize Disbursements	Admin. Costs & Unreported Progressive Jackpot Deposits	Net Proceeds
2010 within SOL	\$1,674,164	\$1,011,780	\$514,312	\$148,072
2011	\$4,210,703	\$2,874,946	\$940,095	\$395,661
2012	\$4,423,896	\$3,047,896	\$955,513	\$420,488
2013	\$4,299,119	\$3,034,750	\$929,868	\$334,501
2014	\$1,424,876	\$978,756	\$351,312	\$94,808
<b>Total</b>	<b>\$16,032,758</b>	<b>\$10,948,128</b>	<b>\$3,691,101</b>	<b>\$1,393,530</b>

2  
3 The submitted materials also reflect that MDP's bingo staff created a series of false  
4 contributor lists that were used to generate its disclosure reports to the Commission. After each  
5 game, the chairpersons created lists of the names and addresses of a small subset of players and  
6 attributed fictitious contribution amounts to each that were unconnected to the players' actual  
7 contributions, if any, at the game.<sup>15</sup> Whereas the average player contributed around \$100, the  
8 most common contribution amounts attributed to the few players identified on the lists in the  
9 Commission's possession were \$300 and \$400, with none below \$150 and some as high as \$750.  
10 The chairpersons provided the false lists to the Compliance Director as part of monthly  
11 documentation packages for each bingo license.<sup>16</sup> Compliance staff then entered that  
12 information in databases used to prepare MDP's disclosure reports.<sup>17</sup>

<sup>15</sup> Submission at 4-6. In light of how the games operated — without recording individual purchases for what was often more than a hundred players in attendance — as well as the large size of the attributed amounts compared to average contributions, it appears highly unlikely that the chairpersons recorded correct contribution amounts for any of the individuals included on these lists. *See id.* at 4 (“The practices followed by MDP resulted in some individuals who made contributions in excess of \$200 during a calendar year not being reported and other individuals were reported as making contributions they did not make.”).

<sup>16</sup> *Id.* at 4-5.

<sup>17</sup> *Id.* at 6.

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1 The Submission illustrates how one chairperson made the contributor list in connection  
2 with a representative game held on September 1, 2012. The list consisted of sixteen players  
3 (about 10% of the 155 actually in attendance) who were assigned fictitious contribution amounts  
4 totaling \$5,750 (slightly less than half of the \$13,554 in actual receipts).<sup>18</sup> The chairperson  
5 recorded amounts of \$400 for 12 players, \$300 for two players, \$200 for one player, and \$150  
6 for one player.<sup>19</sup> Half of the listed players completed a prize voucher for receiving a prize  
7 disbursement at that particular game.<sup>20</sup> The other half completed prize vouchers for games on  
8 other dates in September 2012.<sup>21</sup> Based on the contributor lists in the Commission's possession,  
9 it appears that multiple chairpersons followed these general procedures.

10 MDP apparently recognized that it risked falsely reporting aggregate contributions over  
11 the annual \$10,000 individual limit by assigning large contributions to a small proportion of  
12 players.<sup>22</sup> Accordingly, a "compliance staff person" would revise the contributor lists before  
13 they were entered into MDP's databases to remove those individuals with reported contributions  
14 at or near the limit.<sup>23</sup> For example, the contributor list made in connection with the September 1,  
15 2012, game originally identified 16 individuals, but three were subsequently crossed out.<sup>24</sup> MDP

<sup>18</sup> Submission at 4; *id.* Ex. 2 (Bingo Weekly Cash Accountability for bingo game held on September 1, 2012); *id.* Ex. 3 (contributor list made in connection with bingo game held on September 1, 2012).

<sup>19</sup> Submission, Ex. 3.

<sup>20</sup> MDP 2012 Amended Oct. Monthly Rpt. at 267-85 (Mar. 27, 2013). Based on contributor lists in the Commission's possession, it appears that the chairpersons commonly included names of players who completed a prize voucher at the corresponding game. We have no information to suggest that the chairpersons used names other than those of bingo players.

<sup>21</sup> *See id.* at 265-653 (reporting September 2012 bingo prize disbursements).

<sup>22</sup> *See* 52 U.S.C. § 30116(a)(1)(D).

<sup>23</sup> Submission at 5.

<sup>24</sup> *Id.*; *see* Submission, Ex. 3.

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1 (“RFAI”) on April 2, 2014.<sup>32</sup> Upon receiving the RFAI, the new Compliance Director alerted  
2 MDP’s counsel and the Party Chairman. The Chairman promptly ordered an internal  
3 investigation by the compliance staff and MDP’s counsel, and apparently also organized a  
4 review of MDP’s bingo operations by an outside committee.<sup>33</sup> On or about May 5, 2014, he  
5 directed that MDP no longer use bingo to raise money for its federal account and, on June 5,  
6 2014, he terminated bingo fundraising altogether.<sup>34</sup> MDP has partially amended several  
7 disclosure reports from 2013 and 2014, but has yet to amend other affected reports.<sup>35</sup>

### 8 III. LEGAL ANALYSIS

#### 9 A. Recordkeeping

##### 10 1. Failure to Record Contributions Received at the Games.

11 The treasurer shall keep an account of all contributions received by or on behalf of a  
12 political committee.<sup>36</sup> For any person who makes a contribution in excess of \$50, such account  
13 shall include the person’s name and address together with the date and amount of the  
14 contribution.<sup>37</sup> For any person who makes a contribution or contributions aggregating more than  
15 \$200 in a calendar year, such account shall include the person’s name, address, occupation, and

<sup>32</sup> See Letter from Campaign Finance Analyst, RAD to Ramesh Verma, Treasurer, MDP (Apr. 2, 2014).

<sup>33</sup> Submission at 8.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.* The Submission represents that MDP “amended the 2014 first quarter FEC report and all of the 2013, 2012, and 2011 FEC reports by moving the misallocated-contributions from the itemized contribution line 11(a)(i) to the unitemized line 11(a)(ii).” *Id.* MDP in fact only amended its 2014 election cycle reports. MDP has not addressed the falsified contributions in reports dating back to 2001 or made other efforts to determine the full scale of the misstatements.

<sup>36</sup> 52 U.S.C. § 30102(c)(1); 11 C.F.R. § 102.9(a). The Commission’s regulations provide that “the entire amount paid as the purchase price for a fundraising item sold by a political committee is a contribution.” 11 C.F.R. § 100.53.

<sup>37</sup> 52 U.S.C. § 30102(c)(2); 11 C.F.R. § 102.9(a)(1).

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1 employer together with the date and amount of any such contribution.<sup>38</sup> For all other  
2 contributions — that is, small contributions below \$50 — such account shall be kept by “any  
3 reasonable accounting procedure.”<sup>39</sup> At fundraising events with many small contributions and a  
4 minimal likelihood of repeat contributions, the treasurer may record the event’s name, dates on  
5 which contributions were received, and total contributions received on each day (the “alternative  
6 accounting method”).<sup>40</sup> Otherwise, the treasurer shall keep an itemized account.<sup>41</sup>

7 MDP did not record individual contributions made by bingo players, only aggregate  
8 game receipts. The average contribution was approximately \$100 and the typical player made  
9 aggregate contributions well in excess of \$200.<sup>42</sup> MDP should have kept an itemized record of  
10 those contributions. Moreover, because there was a significant likelihood of repeat contributions  
11 — players “commonly play[ed] bingo more than once per week and dozens of times over the  
12 course of a year” — MDP should have also kept an itemized record of small contributions.<sup>43</sup>

<sup>38</sup> 52 U.S.C. § 30102(c)(3); 11 C.F.R. § 102.9(a)(2); *see also* 52 U.S.C. § 30101(13)(A); 11 C.F.R. § 100.12 (defining “identification” of an individual).

<sup>39</sup> 11 C.F.R. § 102.9(a).

<sup>40</sup> *See* Advisory Op. 1980-99 at 1-2 (N. Cal. Republican Roundup) (advising that a committee could utilize the alternative accounting method in the context of events costing five dollars to \$25 for admission with hundreds expected to attend but few expected to attend more than once); *but cf.* Advisory Op. 1981-48 at 1-2 (Muskegon Cty. Republican Party) (approving the alternative accounting method in the context of bingo games where the average player spent about \$12).

<sup>41</sup> *See* Advisory Op. 1991-20 at 8 (Call Interactive) (explaining the “heightened” interest in recording names and addresses of individuals who make small contributions when a fundraising method permits repeat contributions); Advisory Op. 1990-1 at 5, 5 n.7 (Digital Corrections) (stating that, when there is a possibility of repeat contributions, it is necessary to record identifying information from individuals who make small contributions to ensure the timely return of prohibited or excessive contributions).

<sup>42</sup> Submission at 7.

<sup>43</sup> *Id.* The issue of repeat contributions notwithstanding, MDP did not keep an unitemized record in accordance with the alternative accounting method. The bingo chairperson completed a form that listed the license number, date, and total receipts. *See, e.g.,* Submission, Ex. 2. However, total receipts consisted of *all* contributions, only a portion of which were small contributions. The purpose of the alternative accounting method is to alleviate the administrative burden of recording small contributions while still accounting for the aggregate amount. The commingling of small contributions within a pool of larger contributions defeats that purpose. This is especially

1 Therefore, the Commission finds reason to believe that MDP violated 52 U.S.C.  
2 § 30102(c)(1)-(3) and 11 C.F.R. § 102.9(a). During the period still within the statute of  
3 limitations, the Commission estimates that MDP failed to keep an itemized record of  
4 contributions totaling approximately \$16,032,758 — all receipts generated at the games.<sup>44</sup>

5 2. Failure to Record Disbursements for Small Prizes

6 The treasurer shall keep an account of all disbursements, along with the date, amount,  
7 and purpose.<sup>45</sup> MDP did not keep itemized records of prize disbursements below \$60.  
8 Therefore, the Commission finds reason to believe that MDP violated 52 U.S.C. § 30102(c)(5)  
9 and 11 C.F.R. § 102.9(b)(1). During the period still within the statute of limitations, the  
10 Commission estimates that MDP failed to keep an itemized record of disbursements totaling  
11 approximately \$3,339,179 — the total of prizes below \$60 not recorded on the vouchers.<sup>46</sup>

12 **B. MDP Engaged in Prohibited and Excessive Cash Transactions**

13 No person shall make cash contributions to a political committee that in the aggregate  
14 exceed \$100.<sup>47</sup> A committee receiving a cash contribution in excess of \$100 must promptly  
15 return the excessive amount.<sup>48</sup> Moreover, a committee receiving an anonymous cash  
16 contribution in excess of \$50 shall promptly dispose of the excessive amount.<sup>49</sup> Furthermore, a

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true where, as here, a committee does not keep itemized records, therefore making it impossible to disaggregate the amount of small contributions and calculate the number of people who made them.

<sup>44</sup> See *supra* note 14 (explaining basis for this estimate).

<sup>45</sup> 52 U.S.C. § 30102(c)(5); 11 C.F.R. § 102.9(b)(1).

<sup>46</sup> See *supra* note 14 (explaining that prizes below \$60 comprised approximately one-third of total prizes).

<sup>47</sup> 52 U.S.C. § 30123; 11 C.F.R. § 110.4(c)(1).

<sup>48</sup> 11 C.F.R. § 110.4(c)(2).

<sup>49</sup> *Id.* § 110.4(c)(3).

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1 committee must deposit all receipts in an account at a depository designated by the committee.<sup>50</sup>  
2 In addition, a committee shall make no disbursements other than petty cash disbursements except  
3 by check or similar draft drawn on such account.<sup>51</sup> A committee is permitted to maintain a petty  
4 cash fund for disbursements not in excess of \$100 per single transaction, but shall keep and  
5 maintain a written journal of all disbursements made from that fund.<sup>52</sup>

6 MDP received all contributions from bingo players in cash.<sup>53</sup> Because MDP did not  
7 record the identity of individuals making contributions, those contributions were anonymous and  
8 a \$50 limit applied. The average contribution at each game was approximately \$100.<sup>54</sup> There is  
9 no information that MDP returned or disposed of the excessive amounts.

10 MDP made disbursements to bingo players for prizes and to bingo staff for wages using  
11 the cash receipts generated at each such game.<sup>55</sup> As a result, those cash receipts were never  
12 deposited in MDP's federal account. Moreover, there is no indication that MDP maintained an  
13 adequate petty cash fund that would have permitted cash disbursements below \$100. Not only  
14 did MDP fail to keep a comprehensive record of all cash disbursements, the funds used to pay  
15 the disbursements were not first drawn from an account at a designated depository.<sup>56</sup>  
16 Consequently, MDP was prohibited from making cash disbursements of any amount.

<sup>50</sup> 52 U.S.C. § 30102(h)(1); 11 C.F.R. § 103.3(a).

<sup>51</sup> 52 U.S.C. § 30102(h)(1)-(2); 11 C.F.R. §§ 102.10, 102.11.

<sup>52</sup> 52 U.S.C. § 30102(h)(2); 11 C.F.R. § 102.11.

<sup>53</sup> Submission at 6.

<sup>54</sup> *Id.*

<sup>55</sup> *See, e.g., id.*, Ex. 2.

<sup>56</sup> Submission at 3. The same provision that defines a petty cash fund also provides that a committee shall deposit all receipts in an account at a designated depository. 52 U.S.C. § 30102(h)(1)-(2).

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1 contribution refund or other offset to contributions along with the date and amount of such  
2 repayment.<sup>59</sup>

3 The Act prescribes additional monetary penalties for violations that are knowing and  
4 willful.<sup>60</sup> A violation of the Act is knowing and willful if the “acts were committed with full  
5 knowledge of all the relevant facts and a recognition that the action is prohibited by law.”<sup>61</sup> This  
6 does not require proving knowledge of the specific statute or regulation the respondent allegedly  
7 violated.<sup>62</sup> Instead, it is sufficient to demonstrate that a respondent “acted voluntarily and was  
8 aware that his conduct was unlawful.”<sup>63</sup> This may be shown by circumstantial evidence from  
9 which unlawful intent reasonably may be inferred.<sup>64</sup> For example, a person’s awareness that  
10 certain conduct is prohibited may be inferred from the “elaborate scheme for disguising” it.<sup>65</sup>

11 1. MDP Knowingly and Willfully Reported False Contributions and Refunds

12 MDP generated contributor lists with the names and addresses of a few players and  
13 attributed to them fictitious contribution amounts that far exceeded the apparent amount of their

<sup>59</sup> 52 U.S.C. § 30104(b)(3)(A), (b)(6)(B)(v), (b)(5)(E); 11 § C.F.R. 104.3(a)(4)(i), (b)(3)(ix), (b)(3)(iv). In the case of an individual, the term “identification” means name, address, occupation, and employer. 52 U.S.C. § 30101(13)(A); 11 C.F.R. § 100.12.

<sup>60</sup> 52 U.S.C. § 30109(a)(5)(B), (d).

<sup>61</sup> 122 Cong. Rec. 12,197, 12,199 (1976).

<sup>62</sup> *United States v. Danielczyk*, 917 F. Supp. 2d 573, 575, 579 (E.D. Va. 2013) (citing *Bryan v. United States*, 524 U.S. 184, 195 & n.23 (1998) (holding that, to establish a violation is willful, government needs to show only that defendant acted with knowledge that conduct was unlawful, not with knowledge of the specific statutory provision violated)).

<sup>63</sup> *Id.* at 579 (citations omitted).

<sup>64</sup> *Cf. United States v. Hopkins*, 916 F.2d 207, 213 (5th Cir. 1990) (quoting *United States v. Bordelon*, 871 F.2d 491, 494 (5th Cir. 1989)). *Hopkins* involved a conduit contributions scheme, and the issue before the Fifth Circuit concerned the sufficiency of the evidence supporting the defendants’ convictions for conspiracy and false statements under 18 U.S.C. §§ 371 and 1001.

<sup>65</sup> *Id.* at 214-15. As the *Hopkins* court noted, “[i]t has long been recognized that ‘efforts at concealment [may] be reasonably explainable only in terms of motivation to evade’ lawful obligations.” *Id.* at 214 (quoting *Ingram v. United States*, 360 U.S. 672, 679 (1959)).

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1 actual contributions. The knowing and willful nature of this conduct is evidenced by the efforts  
2 to conceal the fraudulent contributions. An MDP employee revised the contributor lists to avoid  
3 the reporting of excessive contributions which occasionally resulted from the inflated  
4 contribution amounts.<sup>66</sup> In addition, MDP attempted to conceal inadvertently reported excessive  
5 contributions by reporting fabricated contribution refunds that never occurred.<sup>67</sup>

6 Therefore, the Commission finds reason to believe that MDP knowingly and willfully  
7 violated 52 U.S.C. § 30104(b) and 11 C.F.R. § 104.3 by falsely reporting itemized contributions  
8 and contribution refunds. Within the statute of limitations period, the Commission identified  
9 \$4,512,400 in likely falsified contributions and \$10,210 in fabricated contribution refunds.<sup>68</sup>

10 2. MDP Misreported Bingo Disbursements and Contributions

11 MDP understated total disbursements and contributions related to bingo. First, as to  
12 disbursements, MDP omitted prizes below \$60 because it relied on "large prize" vouchers and  
13 also failed to include the cash it paid the bingo staff. Second, as to contributions, MDP  
14 determined the total by adding net receipts deposited after each game to the sum of all prize  
15 vouchers. But that omitted cash receipts used to pay prizes below \$60, to pay staff wages, and to  
16 fund the progressive jackpot account.

17 Therefore, the Commission finds reason to believe that MDP violated 52 U.S.C.  
18 § 30104(b) and 11 C.F.R. § 104.3(a), (b) by understating total disbursements and contributions.

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<sup>66</sup> Submission at 6.

<sup>67</sup> *Id.* at 5 n.6.

<sup>68</sup> *See supra* Part II.

1 Within the statute of limitations period, the Commission estimates that MDP failed to report  
2 approximately \$3,941,099 in disbursements and \$4,373,983 in contributions.<sup>69</sup>

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<sup>69</sup> See *supra* note 14 (explaining the basis for these estimates).

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